In forma pauperis
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United States Supreme Court

No. 611

CHARLES COATES,
Appellant,

versus

R. H. LAWRENCE, SUPERINTENDENT AND WARDEN OF THE GEORGIA STATE PRISON,
Appellee

CERTIORARI FROM THE CIRCUIT COURT OF APPEALS OF THE UNITED STATES, FIFTH CIRCUIT

BRIEF FOR APPELLEE

ELLIS ARNALL,
Attorney General,
State of Georgia.
E. L. REAGAN,
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J. H. PASCHALL,
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Counsel for Respondent.

UNITED STATES SUPREME COURT

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STATEMENT OF THE CASE

Charles Coates was convicted in the Superior Court of Catoosa County, Georgia on February 5, 1941 for the murder of Fred Black, a Georgia State Highway Patrolman, and was sentenced to death. Coates was represented in his trial by an appointed attorney. Thereafter he employed attorneys, made a motion for new trial which was denied in Catoosa Superior Court. An appeal on writ of error went to the Georgia Supreme

Court and the judgment of the lower court was affirmed May 14, 1941, *Coates vs. The State*, 192 *Ga.* 130.

Coates applied for writ of Habeas Corpus against R. H. Lawrence, warden and others in the City Court of Reidsville, which, after hearing of evidence, was denied. An appeal on writ of error went to the Supreme Court of Georgia and that court affirmed the lower court. *Coates vs. Lawrence*, 193 *Ga.* 379; 18 *S.E.* (*2nd*) 685.

On or about May 15, 1942 Coates applied to Honorable A. B. Lovett, United States District Judge for the Southern District of Georgia for a writ of Habeas Corpus against R. H. Lawrence, et al. After full hearing on the matter, the petition was denied by Honorable A. B. Lovett, District Judge, 46 *F Supp.* 414. His written opinion, which is filed with this court along with the record gives a full and clear statement of the facts, the issues and the law. An appeal was taken from his ruling to the United States Circuit Court of Appeals, Fifth Circuit. The lower court was affirmed October 27, 1942. 131 *Fed.* (*2nd*) 110.

THE QUESTIONS INVOLVED, BRIEF OF THE LAW AND ARGUMENT.

In the hearing before Judge A. B. Lovett, the appellee herein took the position that (1) Appellant was seeking to raise questions by a writ of Habeas Corpus which properly should have been raised by writ of error in the State Court, and which were not so raised, and (2) It was argued that the appellant had raised the identical issues in his application for writ of Habeas Corpus before the City Court of Reidsville sought to be raised in this case before Judge A. B. Lovett, and in

view of the fact that the decision rendered by the City Court of Reidsville had been affirmed by the Supreme Court of Georgia, we took the position that this former decision constituted valid grounds for refusing to entertain this new petition for writ of Habeas Corpus in the United States District Court. In our opinion, the United States District Judge, in the exercise of his discretion, could have properly disposed of this case upon one or both of these two grounds.

Instead of disposing of the case upon one of these grounds, without considering the case upon its merits, the District Judge made a very searching inquiry into all facts of the case, and had the case argued before him at length on two different occasions.

In studying the record, and in studying the written opinion prepared by Judge A. B. Lovett, District Judge, we have been completely convinced that he has clearly and correctly stated the facts, analysed the issues, and has correctly stated the law applicable thereto. In our opinion, if we should endeavor to prepare a long and detailed brief, we would simply place an unnecessary burden upon this court, requiring the court to read a brief to support an opinion which, in our view, will stand alone unimpeachable. The Circuit Court of Appeals, in referring to this opinion said: "These contentions were made in the court below, and were exhaustively considered and disposed of in a very able opinion that, in our judgment, correctly states the law of the case." 131 *Federal* (*2nd*) 110.

With this statement, we adopt as our brief the written opinion prepared and rendered by Judge Archibald

B. Lovett, United States District Judge, which is dated July 8, 1942, and is before this court with the record.

Respectfully submitted,

ELLIS ARNALL,
Attorney General,
State of Georgia.

E. L. REAGAN,
Asst. Attorney General,
State of Georgia.

J. H. PASCHALL,
Solicitor General.

ANDERSON, ANDERSON,
AND WALKER,
Counsel for Respondent.

I, E. L. Reagan, Assistant Attorney General, State of Georgia, do certify that I have this day served James R. Venable, of counsel for the petitioner, with a copy of the within response, this 14 day of January, 1943.

E. L. REAGAN.